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RECENT CASES.

ANTI-TRUST STATUTE—CONSTRUCTION.—*STATE v. M. K. & T. R. R. Co.*, 91 SOUTHWESTERN 214 (TEX.).—*Held*, that the anti-trust statutes of Texas, requiring every railroad to furnish reasonable and equal facilities for all corporations engaged in the express business, and defining a trust as a combination of capital, skill, or acts of two or more persons to create or carry out restrictions in the free pursuit of any business, should be construed as prohibiting a contract between a railroad company and an express company whereby the latter was given exclusive privileges, and the former bound itself not to contract with others to do an express contract on the road, and agreed that in case privileges should be accorded others by legislation or judicial proceedings the express company in question should have credit for the sums paid by other companies.

BANKS AND BANKING—SAVINGS BANKS—ASSIGNMENT OF DEPOSIT.—*AUGSBURY v. SHURLIFF*, 99 N. Y. SUPP. 989.—*Held*, that a depositor in a savings bank may assign or transfer his interest in his deposit for a valuable consideration, without the delivery of the pass-book representing the deposit.

The relation between bank and depositor is simply that of debtor and creditor. *Marine Bank v. Fulton Bank*, 2 Wall. 252, 256, and the bank holds the fund subject to be paid out to the creditor according to the terms imposed by him. *Shipman v. Bank*, 126 N. Y. 318. Intention to assign need not be in express terms, but may be implied from any act or instrument which admits of such interpretation. *Garnsey v. Gardner*, 49 U. S. 167. The rule that a cause of action may be assigned by parol extends to a debt due to assignor from third person, as a deposit in a bank, *Phoenix Bank v. Risley*, 111 U. S. 125. A pass-book in itself constitutes no evidence of a right to draw money thereon. It merely imports a liability to depositor for moneys received. *Smith v. Brooklyn Bank*, 101 N. Y. 58. An order for whole sum due and given in good faith for a valid consideration, constitutes an assignment of deposit in hands of savings bank. *Kingman v. Perkins*, 105 Mass. 111. Although the precise point involved does not seem to have arisen, the principles involved are clear and seem to uphold the case.

CARRIERS—TREATMENT OF PASSENGERS—MENTAL SUFFERING SUBJECT FOR DAMAGES.—*GULF, C. & S. F. RY. CO. v. COOPWOOD*, 96 S. W. 102 (TEX.).—*Held*, that the trial judge did not err in charging that the physical and mental suffering resulting to the plaintiff from the negligent treatment of her daughter by the employees of the defendant constituted actual damages.

COMMON CARRIER—CONTRACT LIMITING LIABILITY.—*TEWES v. NORTH GERMAN LLOYD STEAMSHIP COMPANY*, 78 N. E. 864 (N. Y.).—*Held*, that a ticket for an ocean voyage is a contract, and that the fact that the conditions on the ticket were not brought especially to the notice of the passenger would not relieve him from the enforcement of those conditions by the company. SEE COMMENT.

CONSTITUTIONAL LAW—CONSPIRACY.—*HODGES v. UNITED STATES*, 203 U. S. 1.—*Held*, that the Federal courts have no jurisdiction under Thirteenth

Amendment as sections 1978, 1979, 5508, 5510, Revised Statutes, of a charge of conspiracy made and carried out in a state to prevent citizens of African descent, because of their race and color, from making or carrying out contracts and agreements to labor. SEE COMMENT.

CONSTITUTIONAL LAW—DISCRIMINATION—PUBLIC CONVEYANCES.—MORRISON v. STATE, 95 S. W. (TENN.) 494.—*Held*, that a state statute which requires the separation of white and colored persons on street cars is a proper police regulation and not violative of constitutional provisions as abridging the privileges of citizens, or depriving them of equal protection of the law.

Equal accommodations are not denied when separate, but equally good cars are furnished for white and black persons, *Britton v. Atlantic R. R.*, 88 N. C. 536; for equality of accommodations, as required by the prohibition against discrimination, is not common and joint enjoyment of such accommodations, *Anderson v. Louisville & N. R. Co.*, 62 Fed. 46. By its police power a state may not regulate interstate commerce, *Leisy v. Hardin*, 135 N. S. 100; but it has been resorted to to remove such restrictions of carriers upon interstate traffic, *Hall v. DeCuir*, 95 U. S. 485. By its police power a state may determine the reasonableness of such regulations with reference to its established customs and traditions, and for the preservation of public peace and good order. *Plessy v. Ferguson*, 163 U. S. 537. Separate cars may be required just as ladies' cars and smoking cars, as conducive to the comfort of parties separately accommodated. *Freund on Police Power*, Section 699; which latter regulation may be imposed as restricting a nuisance. *Booth on Street Railways*, Section 238. *State of Louisiana v. Heidenbain*, 42 La. An. 483.

CONSTITUTIONAL LAW—LABOR LEGISLATION—VALIDITY.—PEOPLE v. MARCUS, 77 N. E. 1073 (N. Y.). A provision of the New York Penal Code, making it a misdemeanor for an employer to coerce or compel employees to enter into an agreement not to join a labor organization as a condition to securing or retaining employment *held* unconstitutional. SEE COMMENT.

CONTRACTS—PARTIES—RIGHTS OF THIRD PARTIES.—VAN METER v. POOLE, 95 S. W. (Mo.) 960.—*Held*, that a contract between two persons may be enforced by a third when entered into for his benefit.

Such a holding is an important exception to the rule,—recognized by all courts in its general application,—that a contract cannot confer rights on a person who is not a party to it. This exception is denied by the courts of England, Massachusetts, and some other states, either in law or equity, unless there is some declaration of trust. *Murray v. Flavell*, 25 Ch. Div. 89; *Exchange Bank v. Rice*, 107 Mass. 37. But is upheld in New York and most of the other states. *Lawrence v. Fox*, 20 N. Y. 268. Generally, all jurisdictions have repudiated the "blood relation" doctrine, fostered by Lord Mansfield. *Wilbur v. Wilbur*, 17 R. I. 295; *Marston v. Bigelow*, 150 Mass. 53. Even in those states where the third party beneficiary is allowed to sue, there must be something more than a mere promise for the benefit of the third person. The promise must be for his benefit, *Simson v. Brown*, 68 N. Y. 355. And, in addition, there must be between the promisee and the third person seeking to enforce the promise, the relation of debtor and creditor, or some such relation as makes the performance of the promise a satisfaction of some legal or equitable duty owing by the promisee to such third person.